

REMARKS

Claims 1-40 are currently pending in the subject application and are presently under consideration. Claims 1, 3, 4, 9-10, 12-13, 15-17, 20-22, 26 and 38 have been amended as shown on pp. 2-7 of the Reply.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 2-40 Under 35 U.S.C §112

Claims 2-40 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Withdrawal of the rejection is requested for at least the following reasons. Independent claim 1 has been amended to recite “An m-commerce system...” Claims 2-40 depend from independent claim 1 and are directed to the system of claim 1. Therefore, claims 2-40 particularly point out and distinctly claim the subject matter which applicant regards as the invention. Accordingly, withdrawal of this rejection is requested.

II. Rejection of Claims 1-40 Under 35 U.S.C. §101

Claims 1-40 stand rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. It is respectfully submitted that this rejection should be withdrawn for at least the following reason. Independent claims 1 (and claims which depend there from), as amended, contain subject matter that structurally and functionally interrelates functional descriptive material in computer-readable media and thus are directed to statutory subject matter. Accordingly, withdrawal of this rejection is requested.

III. Rejection of Claims 1-18, 22-35 and 40 Under 35 U.S.C. §103(a)

Claims 1-18, 22-35 and 40, as interpreted, stand rejected under 35 U.S.C. §103(a) as being unpatentable over VanErlach (U.S. Publication No. 2004/0204063) in view of Gellman (U.S. Publication No. 2002/0035536). Withdrawal of the rejection is requested for at least the following reasons. VanErlach and Gellman fail to disclose or suggest each and every element of the claimed subject matter.

Applicant's claimed invention relates to a secure m-commerce system and device. In particular, the claimed invention provides for global framework for mobile commerce that provides data input to receive purchase information, location aware transactions, real-time bidding for items on a personal shopping list, and seamless connectivity with an on-line agent while maintaining privacy in the commerce transaction. To this end, independent claim 1, in part, recites *a coordination component that presents the article of commerce from a shopping list to a vendor for bid, the coordination component receives the bid for transacting the article of commerce in real-time... a payment component that facilitates secure payment of the article of commerce by providing secure communication using at least biometric authentication.*

VanErlach and Gellman fail to disclose or suggest such novel aspects of the subject claims.

VanErlach relates to a plurality of enhanced telecommunication services. Specifically, VanErlach discloses methods of: 1) determining location-based product price and availability using a wireless device; 2) vital signs and location monitoring; and 3) creating and maintaining an event and future markets.

In the subject Office Action, the Examiner contends that VanErlach discloses *a coordination component that presents the article of commerce to a vendor for bid* at paragraph 0032. At the indicated passage, the cited reference merely discloses predicting future prices of media, such as compact discs, books, games, *etc.* For example, a user can connect a device to receive information relating to a futures market. In one particular example, a security based on said product may trade like a stock where buyers and sellers bid to determine its value and exchange a unit of value which may be monetary or otherwise. Host sponsors may offer incentives to market participants and use the value of said product futures-derived securities to adjust their sales and production plans. Such a process allows the seller to gather information to refine marketing, pricing, and distribution. In other words, the cited reference relates to predicting and appropriately adjusting future prices of media, such as compact discs, books, games, *etc.* based on user feedback. On the other hand, the claimed invention relates to *real-time bidding for items on a personal shopping list* and receiving response from vendors for transaction on the bids. To this end, claim 1, as amended, recites *a coordination component that presents the article of commerce from a shopping list to a vendor for bid, the coordination component receives the bid for transacting the article of commerce in real-time; the data input component provides an alert when it is within physical proximity of the vendor that is presented*

the bid. The cited paragraph 0017 of VanErlach relates only to current real-time fluctuations of new-release related future sales expectations, and never considers *real-time* transactions. As such, VanErlach fails to disclose the aforementioned novel aspects of the claimed invention. Gellman fails to make up for these deficiencies.

Moreover, nowhere do VanErlach or Gellman disclose that *the data input component provides an alert when it is within physical proximity of the vendor that is presented the bid*. VanErlach discloses “a user reads or enters a product code with or into a wireless device and selects a user interface option that allows a price and inventory lookup within a user-defined distance from the geographic position of the device as determined by global positioning systems.” VanErlach, paragraph 0013. However, nowhere goes VanErlach provide *an alert* when the *data input component* itself is *within physical proximity*, let alone when the *data component* is *within physical proximity of the vendor that is presented a bid*. Gellman fails to cure these deficiencies.

Additionally, VanErlach and Gellman, alone or in combination, do not disclose *locates the article of commerce via RF backscattering* as recited in dependent claim 8. The cited paragraph 0012 of VanErlach only describes data exchange utilizing RF, and does not consider *RF backscattering*, let alone in the context of *locates an the article of commerce*.

Furthermore, dependent claim 17 recites providing *secure communication using at least one of radio frequency identification (RFID) data or an article-of-commerce dataform*. VanErlach never considers secure communication utilizing RFID nor secure communication utilizing an article-of-commerce dataform, but rather relates only to item identification using RFID. See VanErlach, paragraph 0029.

Finally, dependent claim 29 recites *the payment component utilizes electronic article surveillance (EAS) technology with bi-stable and resettable EAS data in an RFID tag*. Paragraph 12 of VanErlach relates serving product samples after reading an RFID, but nowhere does it consider the implementation of a *payment component* that utilizes *EAS technology with bi-stable and resettable EAS data in an RFID tag*.

Based on at least the foregoing, VanErlach and Gellman fails to disclose or suggest each and every element of the claimed subject matter as recited in independent claim 1 (and claims which depend there from). Therefore, this rejection should be withdrawn.

IV. Rejection of Claims 19-21 Under 35 U.S.C. §103(a)

Claims 19-21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over VanErlach in view of Gellman and further in view of Freund (US Publication No. 2003/0187787). Withdrawal of the rejection is requested for at least the following reasons. Freund, *et al.* does not make up for the aforementioned deficiencies of VanErlach and Gellman with respect to independent claim 1. Claims 19-21 depend from claim 1, and are believed allowable for at least the same reasons claim 1 is patentably distinct from the cited art. Accordingly, reconsideration and withdrawal of this rejection is earnestly requested.

V. Rejection of Claims 36-37 Under 35 U.S.C. §103(a)

Claims 36-37 stand rejected under 35 U.S.C. §103(a) as being unpatentable over VanErlach in view of Gellman and further in view of Edgett, *et al.* (US Publication No. 2004/0034771). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. VanErlach, Gellman, and Edgett, *et al.*, individually or in combination, do not disclose or suggest each and every element set forth in the subject claim. In particular, Edgett, *et al.* does not make up for the aforementioned deficiencies of VanErlach and Gellman with respect to independent claim 1 (which claims 36-37 depend there from). Therefore, the claimed invention as recited in claims 36-37 is not obvious over the combination of VanErlach, Gellman, and Edgett, *et al.* Thus, it is respectfully submitted that this rejection be withdrawn.

VI. Rejection of Claim 38 Under 35 U.S.C. §103(a)

Claim 38 stands rejected under 35 U.S.C. §103(a) as being unpatentable over VanErlach in view of Gellman and further in view of Grunes *et al.* (US Publication No. 2002/0113707). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. VanErlach, Gellman, and Grunes, *et al.*, individually or in combination, do not disclose or suggest each and every element set forth in the subject claim. In particular, Grunes, *et al.* does not make up for the aforementioned deficiencies of VanErlach and Gellman with respect to independent claim 1 (which claim 38 depends there from). Therefore, the claimed invention as recited in claims 38 is not obvious over the combination of VanErlach, Gellman, and Grunes, *et al.* Thus, it is respectfully submitted that this rejection be withdrawn.

VII. Rejection of Claim 39 Under 35 U.S.C. §103(a)

Claim 39 stands rejected under 35 U.S.C. §103(a) as being unpatentable over VanErlach in view of Gellman and further in view of Hoffberg (U.S. Patent No. 6,791,472). Withdrawal of this rejection is requested for at least the following reasons.

Claim 39 depends from independent claim 1. Applicant agrees that VanErlach and Gellman do not disclose *the payment component includes a communication process that is prioritized according to a bandwidth provisioning architecture* as set forth in the subject claim. The Examiner cites Hoffberg to make up for this deficiency. However, Hoffberg is silent on the aforementioned aspects. Hoffberg relates only generally to bandwidth regulation in mobile communication. *See* Hoffberg, col. 27, ln. 1-35. However, Hoffberg does not consider this aspect in a payment component or any sort of payment scheme. Therefore, this rejection should be withdrawn.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [SYMBP152US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number below.

Respectfully submitted,

AMIN, TUROCY & CALVIN, LLP

/Himanshu S. Amin/

Himanshu S. Amin

Reg. No. 40,894

AMIN, TUROCY & CALVIN, LLP
24TH Floor, National City Center
1900 E. 9TH Street
Cleveland, Ohio 44114
Telephone (216) 696-8730
Facsimile (216) 696-8731